

REMARKS

Claim Amendments

Claims 37 and 40 are amended. Claims 1-26, 29-36, 38-39, 41, 43-46, and 49-50 are canceled without prejudice or disclaimer. New claims 51-65 are added. Support for the claim amendments and new claims can be found throughout the specification, for example at [181]-[205], [266]-[320], and Examples 3-6, and in the claims as originally filed. Applicant respectfully requests entry of this amendment submits that the claim amendments and new claims do not constitute new matter.

Allowable Subject Matter

Applicant appreciates the Office Action's indication that claims 27, 28, 42, 47 and 48 are allowable. Applicant notes that claim 40 has been amended to depend from allowable claim 27. Applicant respectfully requests rejoinder and allowance of claim 40 pursuant to In re Ochiai, 71 F.3d 1565, 37 U.S.P.Q.2d 1127 (Fed. Cir. 1995).

Claim Objections

Claims 36 and 37 were objected to because they include limitations from the unelected invention of claim 29. Applicant has cancelled claim 36 and amended claim 37 to depend from claims 27, 28, or 47 therefore this objection *moot*.

Enablement Rejections under 35 U.S.C. § 112 ¶ 1

Claim 36 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Applicant has cancelled claim 36 rendering this rejection *moot*.

Claim 37 was rejected under 35 U.S.C. § 112, first paragraph, because the specification, while enabling for treating antiviral activity against vesicular stomatitis virus (VSV) *in vitro* and against Encephalomyocarditis virus (EMCV) *in vivo* (mouse model), does not reasonably provide enablement for the treatment against all viral diseases or preventing viral diseases.

Applicant has amended claim 37 to recite "chronic hepatitis B, chronic hepatitis C, infectious pneumonias, venereal diseases, or genital warts."

IFN α is used for treatment of various viral diseases and conditions such as venereal disease. See e.g., paragraphs [011]-[012]. As the Office Action recognizes, the specification teaches that polypeptides of the invention also demonstrate antiviral activity. See e.g., Office Action at page 7; See also Example 6. Indeed, Example 6(a) shows that G45R mutated IFN α -17 has an antiviral activity higher than that of wild-type IFN α -2. In view of these results, it is clear to the skilled artisan that the polypeptides of the invention can be used to treat the same disorders and diseases as IFN α of the prior art and, in particular, the same viral diseases.

Applicant respectfully requests reconsideration and withdrawal of this rejection.

CONCLUSION

Applicant respectfully submits that claims are in condition for allowance, and such disposition is earnestly solicited. Should the Examiner believe that any issues remain after consideration of this response, the Examiner encouraged to contact the Applicant's undersigned representative to discuss and resolve such issues.

In the event that a variance exists between the amount tendered and that deemed necessary by the U.S. Patent and Trademark Office to enter and consider this response or to maintain the present application pending, please credit or charge such variance to the undersigned's **Deposit Account No. 50-0206**.

Respectfully submitted,

HUNTON & WILLIAMS LLP

Dated: February 20, 2007

By:



Robert M. Schulman
Registration No. 31,196

Christopher J. Nichols, Ph.D.
Registration No. 55,984

HUNTON & WILLIAMS LLP
Intellectual Property Department
1900 K Street, N.W., Suite 1200
Washington, DC 20006-1109
(202) 955-1500 (telephone)
(202) 778-2201 (facsimile)

RMS/CJN:cdh